

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: 1180-1184 Campbell Avenue General Plan Amendment and Planned Development Rezoning Project

PROJECT FILE NUMBER: GP04-03-02 and PDC04-068

PROJECT DESCRIPTION: The project proposes an amendment to the *City of San José's 2020 General Plan Land Use/Transportation Diagram* changing the land use designation on a 7.6-acre site from *Light Industrial* to *Medium High Density Residential (12-25 DU/AC)*. The project proponent is also proposing that the City of San José rezone the 7.6-acres from Heavy Industrial (HI) to A (PD) Planned Development. The proposed rezoning would allow for the construction of 104 detached single-family residences and a private recreational area, including a pool, spa, restrooms, and clubhouse on the site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project site is located on the north side of Campbell Avenue, approximately 1,320 feet east of El Camino Real in the City of San José; APN: 230-14-007.

COUNCIL DISTRICT: 3

NAME OF APPLICANT/OWNER: MMAD Investments, P.O. Box 2518, Santa Clara, CA 95055. Phone No. (650) 812-4835.

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Andre K. Hunt, Santa Clara Development Co., 2185 The Alameda, Suite 150, San José, CA 95126. Phone No. (408) 345-1767.

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AIR QUALITY

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: Air Quality Policy 1; Air Quality Policy 6.

SPECIFIC DEVELOPMENT MITIGATION AND AVOIDANCE MEASURES

- Development under the proposed General Plan designation shall be subject to the City's grading ordinance; all earth moving activities shall include provisions to control fugitive dust, including regular watering of the ground surface, cleaning nearby streets, damp sweeping, and planting any areas left vacant for extensive periods of time.
- All construction vehicles should be properly maintained and equipped with exhaust mufflers that meet State standards.
- Newly disturbed soil surfaces shall be watered down regularly by a water truck(s) or by other approved method maintained on site during all grading operations. Construction grading activity shall be discontinued in wind conditions that, in the opinion of the Public Works Construction Inspector, cause excessive neighborhood dust problems. Wash down of dirt and debris into storm drain systems will not be allowed.
- Construction activities shall be scheduled so that paving and foundation placement begin immediately upon completion of grading operation.
- All aggregate materials transported to and from the site shall be covered in accordance with Section 23114 of the California Vehicle Code during transit to and from the site.
- The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level of less than significant. The following construction practices required by the City of San José meet or exceed the BAAQMD feasible construction dust control measures and will be implemented during all phases of construction on the project site:
 - a) Use dust-proof chutes for loading construction debris onto trucks.
 - b) Water to control dust generation during demolition of structures and break-up of pavement.
 - c) Cover all trucks hauling demolition debris from the site.
 - d) Water or cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.
 - e) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - f) Sweep daily (preferably with water sweepers) all paved access road, parking areas and staging areas at construction site.
 - g) Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
 - h) Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - i) Install gravelbags or other erosion control measures to prevent silt runoff to public roadways.
 - j) Replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: *Urban Design Policy 24; Urban Forest Policy 2, 3, 5, 6, 7, 8; Species of Concern Goal.*

SPECIFIC DEVELOPMENT MITIGATION AND AVOIDANCE MEASURES

- The project will conform to the City of San José's Tree Ordinance. Loss of ordinance sized trees will be mitigated by conformance with the City of San José Landscaping Guidelines. Removed ordinance sized trees 56-inch circumference or 18-inch diameter will be replaced at a minimum ratio of 4:1, generally with

trees in 24-inch box size, or larger, containers. Non-ordinance trees 12-inch in diameter or greater will be replaced at 2:1 ratio with 24-inch box trees; trees less than 12-inch in diameter replace at 1:1 ratio with 15-gallon native species.

- If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest until the end of the nesting activity. The applicant shall submit a report indicating the result of the survey and any designated buffer zones to the satisfaction of the Planning Department prior to the issuance of any grading or building permit.

CULTURAL RESOURCES

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: *Historic, Archaeological, and Cultural Resources Policy 1, 8, and 9.*

SPECIFIC DEVELOPMENT MITIGATION AND AVOIDANCE MEASURES

- In the event any significant cultural materials are encountered, all construction within a radius of 50 feet of the find will be halted, the Environmental Principal Planner of the City of San José Department of Planning, Building and Code Enforcement and the Director of Public Works will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and the appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials.
- In the event that human remains and/or cultural materials are found, all project related construction shall cease within a 50-foot radius of the find in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
 - a. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
 - b. A final report shall be submitted to the Environmental Principal Planner of the City of San José Department of Planning, Building and Code Enforcement and Director of Public Works. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusion, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Environmental Principal Planner of the Department of Planning, Building and Code Enforcement.

HAZARDS AND HAZARDOUS MATERIALS

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: *Hazardous Materials Policy 1, 2, 3; Water Resources Policy 7.*

OTHER PROGRAMMED MEASURES

- *AB3205 (Risk Management)* contains legislation that requires businesses which use extremely hazardous materials to submit a Risk Management and Prevention Plan to the administering agency upon request. The Santa Clara County Department of Health Services, Toxic Substance Control Division is the administering agency for the local implementation of AB3205. The required plans identify specific risks associated with the use and storage of extremely hazardous materials at specific locations, along with potential target populations which may be at risk.
- *AB2185 and AB3777* contain requirements for emergency response plans. The purpose of these plans is to assist local agencies in preparing for a hazardous materials spill. Emergency plans identify the potential for accidents in a community, define a chain of command in the event of an emergency, outline escape routes if necessary, and provide other emergency procedures. Each responsible agency maintains detailed operation procedures for responses to hazardous materials problems.
- *Toxic Gas Ordinance, Chapter 17.78, San José Municipal Code* provides a uniform, countywide program for the prevention, control and mitigation of dangerous conditions, to provide for building standards and for emergency response to protect the public from acute exposure due to accidental releases of toxic gases.

SPECIFIC DEVELOPMENT PROJECT MITIGATION AND AVOIDANCE MEASURES

- Prior to development, the following mitigation measures will be conducted on the project site:
 - The stained pavement and small volume of soil (i.e., less than five (5) cubic yards) adjacent to the rear wall of Building 1, shall be excavated and removed to a permitted disposal facility.
- As appropriate, a lead survey of painted surfaces and soil around the building will be performed prior to demolition. Requirements in the California Code of Regulations will be followed during demolition activities, including employee training, employee air monitoring and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the waste being disposed.
- 2) The applicant will enter into a voluntary cleanup program with Department of Toxic Substances Control (DTSC) or the Regional Water Quality Control Board (RWQCB) to review and approve the soil gas mitigation plan.
- 3) After demolition, another soil gas survey shall be performed. The advantages of performing a soil gas survey after rough grading are as follows:
 - a) The soil gas concentrations measured will take into account the additional soil added to raise the grade of the project site and the removal of the concrete slabs, which could also decrease VOC concentrations and thus be more representative of potential exposure conditions for a future resident;
 - b) Additional time will have passed allowing PCE, vinyl chloride and TPH-related concentrations to attenuate and degrade further; and
 - c) Sampling locations can be selected relative to the exact locations of ground level living spaces.
 - d) If the VOC concentrations have decreased below ESL, then no further mitigation measures are required and development can proceed. However, if the results of the preconstruction soil gas survey determine that VOC levels do not decrease to concentrations below the ESLs, then additional mitigation, such as a passive venting barrier and/or crawlspace shall be installed for specific units need a venting barrier.
 - e) A passive vapor barrier and/or crawlspace are common techniques for preventing migration of vapor or gas from soil into indoor living spaces. A passive vapor barrier consists of an impermeable liner installed beneath the homes foundation slab and sometimes includes a venting layer consisting of a series of slotted vent pipes installed in gravel below the liner. The vent pipes are connected to a standpipe that vents vapors collected beneath the home to ambient air above the roof line, thus preventing the migration of VOCs from

soil into air inside the home. A crawlspace eliminates the need for the vent pipes because the crawlspace allows subsurface vapors to be diluted with outside air typically reducing the concentrations of VOCs to below ESLs.

- Cleanup and remediation of the site will be required to meet all Federal state and local regulations. All storage tanks will be properly closed and removed according to the City of San José Fire Department standards prior to development.
- All demolition activities will be undertaken according to OSHA and EPA standards to protect workers and off-site occupants from exposure to asbestos and lead based paint. Specific measures include air monitoring during demolition/construction activities which include existing buildings.
- Building materials classified as hazardous materials will be disposed of in conformance with Federal, State, and local laws.

HYDROLOGY AND WATER QUALITY

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: *Water Resources Policy 8, 9, 12; Bay and Baylands Policy 5.*

SPECIFIC DEVELOPMENT PROJECT MITIGATION MEASURES:

- The project will comply with the City of San José's NPDES Permit requirements, the City's ordinances and policies related to storm water management, the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity, and other applicable local, state, and federal requirements.
- The project will comply with the City of San José Grading Ordinance, including erosion and dust control during site preparation and with the City of San José zoning ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific measures will be implemented to prevent storm water pollution and minimize potential sedimentation during construction:
 - a) restrict grading to the dry season or meet City requirements for grading during the rainy season;
 - b) using Best Management Practices to retain sediment on the project site;
 - c) burlap bags filled with drain rock will be installed around storm drains to route sediment and other debris away from the drains;
 - d) providing temporary cover of disturbed surfaces to help control erosion during construction;
 - e) provide permanent cover to stabilize the disturbed surfaces after construction has been completed;
 - f) the project will comply with the City of San José's NPDES Permit requirements, the City's ordinances and policies related to storm water management, the State Water Resources Control Board General Permit for Discharges of Storm Water Associated with Construction Activity, and other applicable local, state, and federal requirements.
- At the development permit stage, the project will include post-construction source control treatment measures and Best Management Practices (BMPs) for reducing the volume of storm water runoff and the contamination in storm water runoff as permanent features of the project, in accordance with the City of San José's requirements, and other local, state, and federal requirements. These features could include disconnected roof downspouts, pervious paving materials, concave parking lot medians, storm water filters, or other structural storm water treatment controls that all would be designed to SCVURPPP and SCVWD specifications for site and soil and groundwater conditions.

LAND USE

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: *Noise Policy 1, 9; Hazardous Materials Policy 3; Residential Land Use Policy 5; Urban Design Policy 1, 21, 22.*

OTHER PROGRAMMED MITIGATION MEASURES

- The City of San José has adopted *Residential Design Guidelines* that are applicable to all attached residential development, or projects proposing single-family detached houses on individual lots of less than 6,000 square feet. As stated in *Urban Design Policy #22*, adherence to these policies is encouraged by the General Plan.

NOISE IMPACTS

GENERAL PLAN AMENDMENT MITIGATION MEASURES:

The following General Plan policies apply: *Noise Policy 1; Urban Design Policy 18; Land Use Compatibility Guidelines for San José*

SPECIFIC DEVELOPMENT PROJECT MITIGATION MEASURES

- Locate noise-sensitive outdoor use areas away from adjacent noise sources. Shield noise-sensitive spaces with buildings or noise barriers whenever possible.
- Design and construct noise barriers to reduce noise at private exterior use areas. A fourteen (14) foot noise barrier (relative to the pad elevation) would provide approximately 10 dBA of noise reduction for noise generated along the railroad right-of-way. The barrier shall be located along the entire length of the northernmost property line. The barrier shall return southward along the easternmost and westernmost property lines approximately 60 feet to shield the private outdoor use areas of end units. Noise generated by the railroad and the future BART line would be expected to be 60 dBA DNL or less with the proposed barrier. Overall noise levels would continue to exceed 60 dBA DNL as a result of aircraft and railways; however, the City recognizes that the exterior noise goal cannot be achieved in the environs of the San José International Airport and major railways.
- To maintain exterior noise levels generated by Campbell Avenue to 60 dBA DNL or less, six (6) foot noise barriers shall be required to shield private patio areas adjacent to the roadway assuming that the receivers are at-grade with Campbell Avenue. A solid six (6) foot noise barrier¹ would be expected to provide at least 5 dBA of noise reduction, yielding exterior traffic noise levels less than 60 dBA DNL.
- Solid six (6) foot noise barriers shall be constructed to shield private outdoor use areas from intermittent noise generated by adjacent light-industrial uses.
- Prior to approval of the development permit, project-specific acoustical analyses are required by the City of San José and shall be submitted to and reviewed by the Environmental Principal Planner to insure that interior noise levels will be reduced to 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units, so that windows could be kept closed at the occupant's discretion to control noise. Special building construction techniques (e.g., sound-rated windows and building facade treatments) may be required for new residential uses adjacent to the railroad. These treatments include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, etc. The specific determination of what treatments are necessary shall be conducted on a unit-by-unit basis. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit. Feasible construction techniques such as these would adequately reduce interior noise levels to 45 dBA DNL or lower.

¹ While the City's *Residential Design Guidelines* encourage provision of private open space (i.e., patios, balconies) for each residential unit, the City could consider a different height and type of fencing along Campbell Avenue based on the project's specific site design and the common open space proposed as part of the project.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **December 8, 2004**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

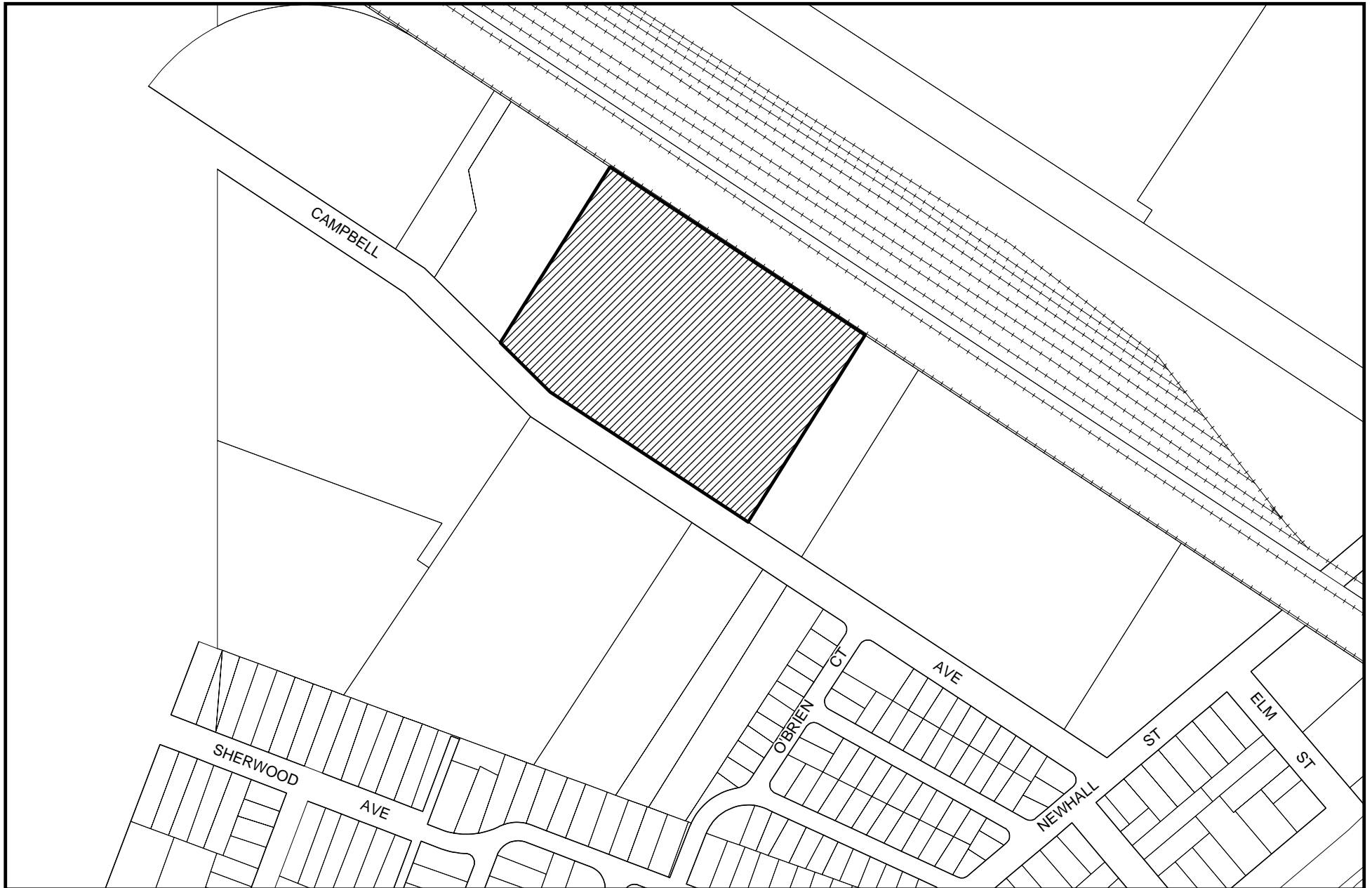
Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: November 9, 2004

Deputy

Adopted on: _____

Deputy



File Number: PDC04-068

Scale: 1" = 300'

Council District: 3

 **Subject Site**



Quad Number: 66

NOTICE OF PUBLIC HEARINGS
City of San Jose, City Hall
801 North First Street, City Council Chambers, 2nd Floor

Fall 2004 Hearings on General Plan Amendments

Planning Commission: Wednesday, December 8, 2004, 6:00 p.m.

City Council: Tuesday, December 14, 2004, 7:00 p.m.

Proposal to amend the General Plan designation on one parcel located at 1180-1184 Campbell Avenue, on the northeasterly side of Campbell Avenue, approximately 1,000 feet northwesterly of Newhall Street in the City of San José (see map on back) to allow for a change from Light Industrial to Medium High Density Residential (12-25 dwelling units per acre) on 7.6 acres. Approval of this amendment would allow residential uses typified by two-story apartments and condominiums with surface parking on the subject site. In some cases taller buildings balanced with open space are allowed.

*Upon review of this application, Planning staff **instead** proposes changing the General Plan designation from Light Industrial to High Density Residential (25-50 dwelling units per acre) on the 7.6-acre site. The designation of High Density Residential (25-50 DU/AC) is typified by three-to-four-story apartments or condominiums over parking and reflects the City's intention to implement residential density supportive of existing Caltrain and future BART ridership.*

You are invited to participate in the above public hearings. The Planning Commission will make a recommendation to the City Council, and the City Council will make the final decision on the proposed General Plan amendment. Please note that the *San Jose 2020 General Plan* reflects the long range future growth for the City. A change in the General Plan land use designation would only affect the type and intensity of future development allowed on the subject property. The proposed amendment to the General Plan for the above referenced property would not change the zoning designation of the property. Zoning changes occur through the rezoning process, which is separate from the General Plan amendment process.

The General Plan Amendment (**File No. GP 04-03-02**) being considered is a request to change the Land Use/Transportation Diagram designation from Light Industrial to Medium High Density Residential (12-25 DU/AC) for property located at 1180-1184 Campbell Avenue, on the northeasterly side of Campbell Avenue, approximately 1,000 feet northwesterly of Newhall Street in the City of San José (see attached location map) on a 7.6-acre site. (MMAD Investments, Owner/Andre Hunt-Santa Clara Development Co./Developer). Council District: 3. Instead Planning staff proposes a Land Use/Transportation Diagram change from Light Industrial to the High Density Residential (25-50 DU/AC). (See explanation of existing and proposed General Plan designations on back.)

Comments and questions regarding this proposal or the General Plan amendment process are welcome, and should be referred to the Project Manager, **Dionne Early**, at (408) 277-4576.

Documents for this project are on file and available for review (MWF: 9 a.m. to 5 p.m.; TTh: 10 a.m. to 5 p.m.) at: **Planning, Building and Code Enforcement, 801 North First Street, Room 400, San Jose, CA 95110, or call (408) 277-4576.** Reports and documents will also available on-line at: www.sanjoseca/planning one week prior to the scheduled hearing.

Stephen M Haase, AICP, Director
Planning, Building and Code Enforcement

Jenny Nusbaum, Senior Planner

Date: _____

Existing General Plan Designation:

Light Industrial

This land use category is typified by warehousing, wholesaling and light manufacturing.

Applicant Proposed General Plan Designation:

Medium High Density Residential (12-25 DU/AC)

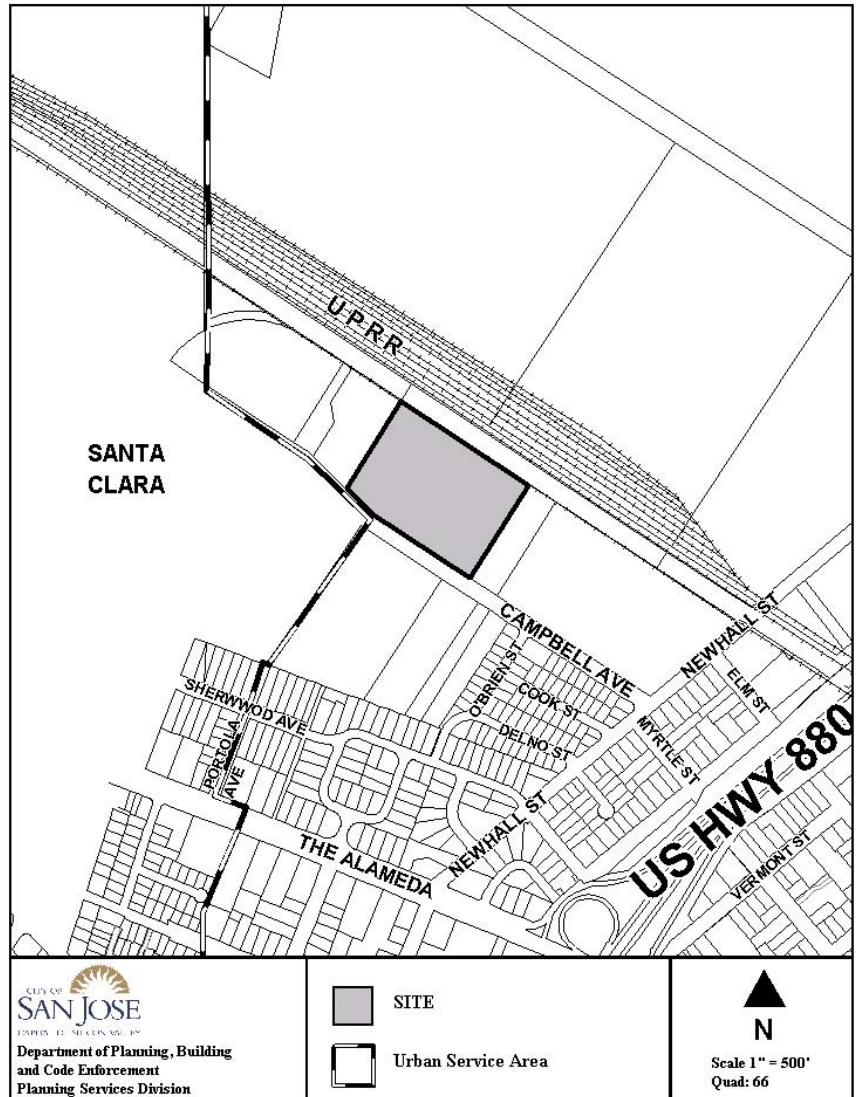
This designation is typified by two-story apartments and condominiums with surface parking. In some cases taller buildings balanced with open space are allowed.

Staff Proposed General Plan Designation:

High Density Residential (25-50 DU/AC)

This density is typified by three-to four-story apartments or condominiums over parking. This density is planned primarily in the vicinity of the rail stations, near the Downtown Core Area, or near commercial centers, and sites within reasonable walking distance of a passenger rail station (2,000 feet).

GP04-03-02



To arrange an accommodation under the Americans with Disabilities Act to participate in these public hearings, please call (408) 998-5299 (TTY) at least 48 hours before the hearing. This document can be made available upon request in alternative formats such as Braille, large print, audio tape or computer disk. Requests can be made by calling (408) 277-4000 (Voice) or (408) 998-5299 (TTY).

If you choose to challenge this land use decision in court, you may be limited to only those issues that you or someone else raised and discussed at the public hearing or in written correspondence delivered to the City at or prior to the public hearing. Reports including the staff report and recommendation are available a week before the public hearing. Additionally, a public packet will be available for review at the hearing.